

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF VIRGINIA

IN RE:

AMENDMENT OF LOCAL
BANKRUPTCY RULES

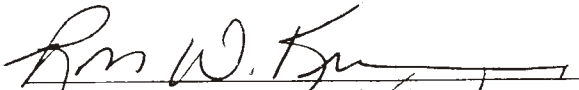
ORDER

IT APPEARING that there is a need to amend Local Rules of Practice **1002-1, 1071-1, 3015-1, 3015-3, 5005-1, 5005-2, 6004-3, 7001-1, 8006-1, 9013-1, 9072-1, Official Form 3015-1B, and Official Form 3015-1C** to assist the Court and Bar in the orderly administration of justice, it is,

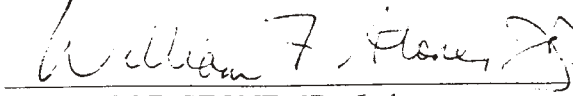
ORDERED that the attached amendments to the Local Rules of Practice are approved and shall be effective October ~~17~~ 2005, subject to the extent that said rules of this Court are not inconsistent with the Federal Bankruptcy Rules. It is further,

ORDERED that the Clerk shall maintain an official copy of the Local Rules of Practice with these amendments, in each of the offices of this Court, located in Roanoke, Lynchburg, and Harrisonburg, Virginia, and shall distribute such other copies in such manner as he may deem appropriate.

ENTER this 8th day of September, 2005.


ROSS W. KRUMM, Chief Judge


WILLIAM E. ANDERSON, Judge


WILLIAM F. STONE, JR., Judge

LOCAL RULE 1002-1

Petition - General

A. Filing in Proper Division: A petition seeking relief under the Bankruptcy Code shall be filed in the divisional office in which the debtor's domicile, residence, principal place of business or principal assets were located for the greater part of the 180 days immediately preceding the filing of the petition, unless an extreme hardship would result or justifiable cause can be shown.

B. Representation by Counsel: Any entity, as defined in 11 U.S.C. §101(15), other than a person, must be represented at all times by an attorney who is a member in good standing of the Bar of this Court.

C. Additional Requirements:

1. Original Signature: The original petition filed must include an unsworn declaration with the original signature of all debtors and the original signature of the debtor's attorney, if any.

2. Number of Debtors: More than one entity cannot be listed as the debtor, except that husband and wife may file a joint petition.

3. Additional Documents to be filed:

(a) a schedule of assets and liabilities on the approved bankruptcy form or a Chapter 13 statement, if applicable.

(b) if the debtor is a corporation, a copy of the corporate resolution or other appropriate authorization, as specified in Local Rule 1074-1.

(c) if a Chapter 11 petition, a list of 20 largest unsecured creditors (pursuant to Bankruptcy Rule 1007(d)).

* (d) a ~~typed~~ mailing matrix ~~or~~ properly formatted 3-1/2" disk pursuant to Local Rule 1007-2.

D. Electronic Filing: Requirements applicable to petitions filed with the Court in electronic format are governed by Local Rule 5005-4 and the Administrative Procedures authorized by the "Order Adopting Case Management/Electronic Case Filing" in the United States Bankruptcy Court for the Western District of Virginia, which may be modified from time to time and posted on the Court's Internet website.

Local Rule 1071-1, continued

The Honorable William F. Stone, Jr.
210 Church Avenue
P. O. Box 2389
Roanoke, VA 24010
(540) 857-2394

The Honorable William E. Anderson, Judge
~~1100 Main~~ 1101 Court Street
P. O. Box 442
Lynchburg, VA 24505
(434) 846-3118

LOCAL RULE 3015-1

Chapter 13 - Plan

A. Filing of Plan:

1. Requirement: The debtor(s) shall file a Chapter 13 plan not later than fifteen (15) days after the commencement of the Chapter 13 case. The plan shall be accompanied by proof of service as required by ~~€~~ section B of this Rule.

2. Required Form Plan: The Court has supplied a form plan (3015-1B) that is ~~appropriate required to be for used by Chapter 13 debtors. The use of this plan is not mandatory. If the form plan is used and filed with the petition it will not be necessary for the debtor(s) to file a "Summary of Plan (Form 3015-1A)".~~

3. Notice to Secured Creditors: The debtor must also properly serve on each creditor whose collateral is to be valued or whose lien is to be partially or entirely avoided the Special Notice to Secured Creditors attached to these local rules as form 3015-1C.

34. Extension of Time to File Plan:

(a) General Policy: Motions to extend the time for filing of a Chapter 13 plan must be in writing.

(b) Motion to Extend Time for Filing Plan: A motion to extend time for the filing of a plan shall not be considered by the Court unless the same is filed within fifteen (15) days after the date of commencement of the Chapter 13 case, or the failure to file falls under the provisions of Rule 60 of the Federal Rules of Civil Procedure.

(c) Notice of Extension of Time to File Plan: If the Court grants the debtor's motion to extend time to file a Chapter 13 plan, the debtor(s) shall forthwith notify the trustee and all creditors of the new deadline set for filing the plan and of the new objection period.

B. ~~Summary of Plan: Except those filing "Form Plan 3015-1B" with their petition, all Chapter 13 debtors shall file with their petition the Summary of Chapter 13 Plan form approved by the Court for use in the Western District of Virginia (Form 3015-1A) and available in the Clerk's office upon request. Any additional information deemed necessary and appropriate by the Chapter 13 trustee shall also to be filed.~~

~~€.~~ Distribution of Plan: The debtor(s) shall distribute a copy of the plan to all creditors, the standing trustee, and other interested parties and provide the court with proof of service of the same. ~~, if the plan is not filed with the petition or if the debtor(s) fails to file a summary of the plan in accordance with section B of this rule.~~

LOCAL RULE 3015-3

Chapter 13 - Objections to Confirmation

A. Deadline for Original Plan and Related Motions Filing: ~~Any objection to confirmation of a Chapter 13 plan, or any modification thereof, shall be filed no later than ten (10) days prior to the date of the confirmation hearing.~~ Any objection to confirmation of the original Chapter 13 Plan, the Motion for Determination of Value, the Motion for Lien Avoidance or the Motion to Assume or Reject an Executory Contract or Unexpired Lease shall be filed not later than forty- five (45) days after the filing of an original Chapter 13 Plan and Related Motions. If an unconfirmed case has been dismissed within the forty-five (45) day objection period and then later reinstated, any objecting party shall have an additional thirty (30) days from the entry of the order reinstating the case to file an objection to the original plan.

B. Deadline for Modified Plans: Any objection to a modified Chapter 13 Plan shall be filed at least ten (10) days in advance of the confirmation hearing for such Plan, except that an objection may be filed within twenty-five (25) days after the date of service of such Plan and accompanying notice, if later.

BC. Service of Objection: The objecting party shall file the original objection to confirmation with the Court and serve copies on the standing trustee, the debtor(s), and the debtor's attorney. The objection shall be accompanied by proof of service evidencing compliance with this requirement.

LOCAL RULE 5005-1

Filing Papers - Requirements

A. Filing in Proper Division

1. Petitions: A petition seeking relief under the Bankruptcy Code shall be filed in the divisional office in which the debtor's domicile, residence, principal place of business or principal assets were located for the greater part of the 180 days immediately preceding the filing of the petition, unless an extreme hardship would result or justifiable cause can be shown.

2. All Other Papers: All motions, pleadings, complaints, and other papers relating to a bankruptcy case or proceeding shall be filed in the divisional office of the Court in which the bankruptcy case is pending, except for those matters covered by 28 U.S.C. §1409.

B. Representation by Counsel: Any entity, as defined in 11 U.S.C. §101(15), other than a person, must be represented at all times by an attorney who is a member in good standing of the Bar of this Court.

C. Additional Requirements:

1. Original Signature: The original petition filed must include an unsworn declaration with the original signature of all debtors and the original signature of the debtor's attorney, if any.

2. Number of Debtors: More than one entity cannot be listed as the debtor, except that husband and wife may file a joint petition.

3. Additional Documents to be filed with Petition:

(a) a schedule of assets and liabilities on the approved bankruptcy form or a Chapter 13 statement, if applicable.

(b) if the debtor is a corporation, a copy of the corporate resolution or other appropriate authorization, as specified in Local Rule 1074-1.

(c) if a Chapter 11 petition, a list of 20 largest unsecured creditors (pursuant to Bankruptcy Rule 1007(d)).

* (d) a typed mailing matrix ~~or properly formatted 3 1/2" disk~~ pursuant to Local Rule 1007-2.

LOCAL RULE 5005-2

Number of Copies for Paper Filings

A. ~~Chapter 7, 12, and 13 Cases:~~ an original and two (2) copies of all Chapter 7, 12, and 13 petitions, schedules and statement of affairs shall be filed with the Court.

B. ~~Chapter 9 and Chapter 11 Cases:~~ an original and five (5) copies of all Chapter 9 and Chapter 11 petitions, schedules and statement of affairs shall be filed with the Court.

LOCAL RULE 6004-3

Sale or Refinance of Property by Chapter 13 Debtor After Confirmation

A. A debtor seeking approval for the sale or refinance of real property following confirmation of a plan that reverts such property in the debtor shall provide the chapter 13 trustee and all creditors and parties in interest at least 20 days notice of the motion seeking such approval unless the notice period has been shortened by the court for cause shown.

B. — In addition to setting forth the information required by Fed. R. Bankr. P. 2002(c)(1), the notice shall state (i) the total proposed sale price or maximum amount to be secured by the refinancing, as the case may be, and, in the case of a refinancing, the amount of the secured debt to paid thereby; (ii) the amount of the sale or loan proceeds to be applied to the debtor's obligations under the confirmed plan; (iii) whether such payment will result in full payment of all allowed claims, and (iv) if all allowed claims will not be paid in full, the amount of the sale or loan proceeds that will be paid to the debtor.

C. If no objection (and, if the motion has not already been set for hearing, a request for hearing) is filed within the objection period, the court, in its discretion, may enter an order endorsed by the chapter 13 trustee approving the sale or refinance without holding a hearing.

LOCAL RULE 7001-1

Adversary Proceedings - General Requirements

A. Venue: All complaints shall be filed in the divisional office of the Court in which the bankruptcy case is pending.

B. Representation by Counsel: Any entity, as defined in 11 U.S.C. §101(15), other than a person, must be represented at all times by an attorney who is a member in good standing of the Bar of this Court.

* C. Requirements of Form: All ~~pleadings, and other~~ papers offered for filing shall meet the following requirements of form:

1. Legibility: Papers shall be plainly and legibly type-written, printed, or reproduced.
2. Caption, Official Forms: The caption and form of all pleadings, schedules, and other papers shall be in compliance with the Bankruptcy Rules, Official Forms, and Local Rules. Each paper or set of papers filed shall bear the case number of the case to which it pertains.
3. Size, Margins, etc: Papers, including attachments and exhibits, shall be of standard weight and letter (8 ½ by 11 inches) size, photo-reduced if necessary, with a top margin of not less than 1 ½ inches. All multi-page pleadings and documents shall be fastened into sets at the top. All papers presented for filing at the same time shall be arranged in case number order.

D. Additional Requirements: Each complaint commencing an adversary proceeding must be accompanied by:

1. Filing Fees: the proper filing fee, as prescribed by the Judicial Conference pursuant to 28 U.S.C. 1930(b).
2. Original Signature: a properly completed and originally signed Adversary Proceeding Cover Sheet (A.O. Form B-104). (Upon request, this form will be provided by the Clerk's Office.)

LOCAL RULE 8006-1

Designation of Record - Appeal

A party designating items, not previously filed in CM/ECF, as part of the record on appeal shall provide copies of the items so designated to the Clerk of the Court. If a party fails to provide copies to the Clerk within five (5) days after the filing of the designation of the record, the Clerk shall prepare copies at the party's expense pursuant to Bankruptcy Rule 8006. The charge assessed will be pursuant to the provisions of 28 U.S.C. §1930(b).

LOCAL RULE 9013-1

Motions Practice

A. Requirement of Written Motion: In all cases or proceedings, all non CM/ECF motions shall be in writing and be originally signed by the movant or movant's counsel unless made during a hearing or trial.

B. Grounds and Relief to be Stated: All motions shall state with particularity the grounds therefor and shall set forth the relief or order sought.

C. Address and Telephone Number of Attorney: The lower left-hand portion of the signature page or pleading shall include the name, address, and telephone number of the attorney or *pro se* party filing the same.

D. Return Date, Conference of Counsel: Except as otherwise provided by an order of the Court or by these Local Rules, all motions shall be made returnable to the time obtained from and scheduled by the Court for a hearing thereon. Before requesting a hearing date on any motion, the proponent shall confer with opposing counsel, in person or by telephone, in a good-faith effort to narrow the area of disagreement.

E. Requirement of Proof of Service: At the end of each pleading, motion and other paper required to be served upon a party, there shall be a proof of service signed by counsel (or the *pro se* party) certifying that copies were served and detailing the date, manner of service, and the names and addresses of those served.

F. Extensions: Any request for an extension of time relating to motions must be in writing and approved by the Court.

G. Determination of Motions Without Oral Hearing: In accordance with Rule 78 of the Federal Rules of Civil Procedure, the Court may rule upon motions without an oral hearing, unless otherwise required by the Bankruptcy Code, the Bankruptcy Rules, or these Local Rules.

H. Giving Notice of Motion or Hearing: The party filing a motion, response, or other pleading requiring or requesting a hearing on same, shall make a good-faith effort to contact opposing counsel for dates and then obtain a hearing date from the Court and shall give notice of that hearing date to all parties required to receive notice by the Bankruptcy Rules, these Local Rules, or by order of the Court. The original motion, response, or other pleading, the notice of hearing, and certification that notice of the hearing date has been given must be filed with the Clerk within five (5) business days after the Court has given the hearing date. Failure to file such a certification and notice within the five (5) business days may result in the Court's reassignment, without notice, of the hearing date to other matters.

LOCAL RULE 9072-1

Court Orders

A. Time for Filing: When the Court instructs a party to prepare a proposed order, the same shall be filed with the Court within ~~fifteen (15)~~ ten (10) days after the conclusion of the trial, hearing, or other disposition of the matter at issue.

B. Form of Filing:

1. Electronic Format: Effective upon the entry of the “Order Adopting Case Management/Electronic Case Filing” in the United States Bankruptcy Court for the Western District of Virginia, counsel tendering any proposed order to the Court shall do so in electronic format in such manner as may be provided in the Administrative Procedures authorized by the “Order Adopting Case Management/Electronic Case Filing” in the United States Bankruptcy Court for the Western District of Virginia, as the same may be modified from time to time and posted on the Court’s internet website.

2. Paper Format: Parties appearing *pro se* may submit proposed orders in paper format, provided that they are typed and in scannable form. In addition, the Court may permit or require any proposed order to be submitted in paper format and bearing original signatures of all counsel or parties endorsing the same. Unless otherwise ordered by the Court, the disposition of such order after scanning shall be governed by Local Rule 5003-1(C).

C. Endorsement: Endorsement of the order by all parties to the action is encouraged but not required. Difficulty in obtaining endorsements will not excuse the party required to file a proposed order from doing so within the time prescribed by A. of this Rule. An order tendered by counsel in electronic format shall contain the attorney’s typed name as follows: /s/ John Doe. An agreed order shall contain in similar manner the signed names of all attorneys or parties whose endorsement is necessary. Counsel’s tender of an order containing the typed signatures of other counsel shall constitute proponent counsel’s representation that each counsel has reviewed the identical version of the order being tendered and consented thereto, or has objected thereto, in which case the fact of such counsel’s objection shall be noted immediately above such counsel’s typed name.

D. Objections Noted: Whenever counsel shall endorse an order and note with such endorsement any objection to the same, unless the grounds for the objection have been previously stated in the record, or unless the grounds are set forth in writing at the time and as a part of the endorsement, or a request made to the Court for a hearing, the objection will be deemed to be waived.

E. Notice: Upon entry of any proposed order, the Clerk shall forthwith send a copy of same to the proponent’s counsel, who shall in turn promptly mail copies thereof to all parties directed by the Court and certify same to the Clerk. It will not be necessary to mail copies of orders to parties who have received electronic notice of same from the Court. ~~This provision will not apply if the proponent is a *pro se* debtor.~~

F. Pro Se Debtors: Upon entry of any proposed order submitted by a *pro se* debtor, the Clerk shall promptly mail copies thereof to all parties directed by the Court.